

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Santosh Prakash	Team: Squad #8	CCRB Case #: 201602490	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 03/10/2016 4:02 PM	Location of Incident: Delancey Street & Forsyth Street	Precinct: 05	18 Mo. SOL 9/10/2017	EO SOL 9/10/2017	
Date/Time CV Reported Thu, 03/24/2016 12:11 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 03/24/2016 12:11 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Frederic Ortiz	03659	935440	PBMS SU
2. POM John Antoniades	19885	954495	MTS PCT
3. POM Ryan Lathrop	07736	954046	MTS PCT
4. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Robinson Martinez	27247	947224	PBMS SU

Officer(s)	Allegation	Investigator Recommendation
A.SGT Frederic Ortiz	Abuse: Sergeant Frederic Ortiz stopped § 87(2)(b)	
B.SGT Frederic Ortiz	Abuse: Sergeant Frederic Ortiz stopped § 87(2)(b)	
C.SGT Frederic Ortiz	Force: Sergeant Frederic Ortiz used physical force against § 87(2)(b)	
D.SGT Frederic Ortiz	Force: Sergeant Frederic Ortiz authorized the use of physical force against § 87(2)(b)	
E.SGT Frederic Ortiz	Force: Sergeant Frederic Ortiz restricted § 87(2)(b)'s breathing.	
F.POM John Antoniades	Force: Police Officer John Antoniades tightly handcuffed § 87(2)(b)	
G. An officer	Force: An officer tightly handcuffed § 87(2)(b)	
H. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
I. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
J. An officer	Abuse: An officer frisked § 87(2)(b)	
K. An officer	Abuse: An officer searched § 87(2)(b)	
L.SGT Frederic Ortiz	Abuse: Sergeant Frederic Ortiz frisked § 87(2)(b)	
M.SGT Frederic Ortiz	Abuse: Sergeant Frederic Ortiz refused to provide his name and shield number to § 87(2)(b)	
N.SGT Frederic Ortiz	Abuse: Sergeant Frederic Ortiz refused to provide his name and shield number to § 87(2)(b)	
O.POM Ryan Lathrop	Abuse: Police Officer Ryan Lathrop refused to provide his name and shield number to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
P.POM Ryan Lathrop	Abuse: Police Officer Ryan Lathrop refused to provide his name and shield number to § 87(2)(b)	
Q.POM John Antoniadis	Abuse: Police Officer John Antoniadis refused to provide his name and shield number to § 87(2)(b)	
R.POM John Antoniadis	Abuse: Police Officer John Antoniadis refused to provide his name and shield number to § 87(2)(b)	

## Case Summary

On March 10, 2016, at 4:02 pm, § 87(2)(b) and § 87(2)(b) were walking east on Delancey Street in Manhattan, after spending the afternoon shopping in the area. As § 87(2)(b) and § 87(2)(b) crossed the intersection of Delancey and Forsyth Streets, they were both suddenly bear-hugged from behind by two plainclothes officers, identified by the investigation as Sgt. Frederic Ortiz and PO Ryan Lathrop of Patrol Borough Manhattan South's Grand Larceny Detail (**Allegations A, B, C, D**). § 87(2)(b) (by Sgt. Ortiz) and § 87(2)(b) (by PO Lathrop) were then moved to the edge of the sidewalk, where they were pushed up against a parked vehicle, chest-forward, still bear-hugged by the officers (**Allegations C, D**). Upon making contact with the vehicle, Sgt. Ortiz modified his hold: he allegedly placed his forearm against § 87(2)(b)'s lower neck, applied pressure, and constricted his breathing (**Allegation E**). At around this time, two other plainclothes officers, identified by the investigation PO John Antoniades and PO Robinson Martinez (also of Grand Larceny), arrived on the scene. PO Antoniades and Sgt. Ortiz then jointly rear-cuffed § 87(2)(b) who was still pressed against the vehicle, and § 87(2)(b) was also handcuffed by officers. When § 87(2)(b) asked if the handcuffs could be loosened, PO Antoniades allegedly tightened their cuffs intentionally (**Allegation F**). An officer also tightened § 87(2)(b)'s cuffs when he requested that they be loosened (**Allegation G**). During this time, officers allegedly told both § 87(2)(b) and § 87(2)(b) to "shut the fuck up." (**Allegations H, I**). An officer then allegedly frisked and searched § 87(2)(b)'s pants pockets (**Allegations J, K**). At this point, PO Martinez approached § 87(2)(b) looked at him, and told Sgt. Ortiz "that's not them." Shortly thereafter, Sgt. Ortiz came over to § 87(2)(b) still held against the vehicle, and allegedly frisked his pants pockets (**Allegation L**). Sgt. Ortiz then explained to § 87(2)(b) that they had been mistaken for criminal suspects, because they "fit the description." Soon thereafter, § 87(2)(b) and § 87(2)(b) were uncuffed. While they had both asked earlier, § 87(2)(b) and § 87(2)(b) now jointly asked Sgt. Ortiz, PO Lathrop, and PO Antoniades for their names and shield numbers. The officers allegedly walked away without responding (**Allegations M, N, O, P, Q, and R**).

The incident did not result in any summonses or arrests. The investigation obtained video surveillance footage which captures some of the incident from two angles: see Video #1 and Video #2, embedded below (linked as: B.R. 01 – Surveillance Video #1; B.R. 02 – Surveillance Video #2). § 87(2)(b) also briefly video recorded the end of the incident on his camera phone (no allegations are captured): see Video #3 embedded below (linked as B.R. 03 – Cell Phone Video).



Video.1.mp4



Video2.mp4



Video.3.mp4

§ 87(2)(g)  
[Redacted text block containing five lines of blacked-out information]

### Mediation, Civil, and Criminal Histories

§ 87(2)(b) rejected mediation. Notice of claim results are pending. § 87(2)(b) (B.R. 08 – Civilian Histories).

### Civilian and Officer CCRB Histories

- § 87(2)(b) and § 87(2)(b) have not filed any prior CCRB complaints (B.R. 08 – Civilian Histories)
- Sgt. Frederick Ortiz has been a member of service for 11 years: he has been a subject in 11 prior cases, on 22 charges, none of which were substantiated. § 87(2)(g)
- PO Ryan Lathrop has been a member of service for 3 years: he has been a subject in 2 prior cases, on 2 charges, none of which were substantiated. § 87(2)(g)
- PO John Antoniades has been a member of service for 2 years: this is his first CCRB complaint.

### Findings and Recommendations

#### Explanation of Subject Officer Identification

Sgt. Ortiz, PO Ryan Lathrop, PO Martinez, and PO Antoniades were all involved in the incident. But due to the physical circumstances of the stop, § 87(2)(b) and § 87(2)(b) provided inaccurate or conflicting subject officer identifications that could not be resolved through video analysis (B.R. 09, 10 – § 87(2)(b) and § 87(2)(b) Statements). However, the investigation determined, on the undisputed facts, that several of the allegations should be pled against Sgt. Frederick Ortiz. Therefore:

**Allegations A, B, C, and D** were pled against Sgt. Ortiz, individually and as supervisor – he acknowledged that executed the stop, and that he authorized PO Lathrop to forcibly seize § 87(2)(b)

**Allegation E** was also pled against Sgt. Ortiz: while § 87(2)(b) mistakenly alleged this force against a bald male, presumably PO Ryan Lathrop, the video shows that Sgt. Ortiz was the one to initially restrain § 87(2)(b) against the vehicle, until he is handcuffed by PO John Antoniades. PO Lathrop is not seen interacting with § 87(2)(b) whose breathing was allegedly restricted after he was pushed against the vehicle, but before he was handcuffed. Because § 87(2)(b) alleged that Sgt. Ortiz (described as wearing a hat) frisked him before speaking to him, **Allegation L** was pled against Sgt. Ortiz.

**Allegation F** was pled against PO Antoniades. Again, § 87(2)(b) mistakenly stated that a bald male intentionally tightened his handcuffs. However, as acknowledged by PO Antoniades, the

video shows PO Antoniades rear-cuffing § 87(2)(b) and holding him after Sgt. Ortiz moved away, remaining behind him for the time period under consideration.

**Allegations G, H, I, J, and K** were pled against an officer. Ruling out the bearded and bald males, § 87(2)(b) described the officer who intentionally tightened his cuffs and cursed at him as a 5'9" tall white male with dark hair – PO Antoniades. § 87(2)(b) stated that the male who had restrained him against the vehicle (described as the bald male, PO Lathrop) used profanity against him, and then frisked and searched him after handcuffing him. While inconclusive, the video footage does not document any interactions between PO Antoniades and § 87(2)(b) and PO Lathrop and § 87(2)(b). None of the officers acknowledged handcuffing § 87(2)(b) using or hearing any discourteous language, or frisking and searching § 87(2)(b). The video (no audio) was inconclusive. As such, the investigation was unable to identify the subject officers, and pled these allegations against an officer.

**Allegations M, N, O, P, Q, and R** were pled against Sgt. Ortiz, PO Lathrop, and PO Antoniades, -- § 87(2)(b) and § 87(2)(b) alleged that the three officers seen in the cell phone video refused to provide their name and shield numbers to both of them.

**Allegation A: Abuse of Authority – Stop: Sergeant Frederic Ortiz stopped § 87(2)(b)**

**Allegation B: Abuse of Authority – Stop: Sergeant Frederic Ortiz stopped of § 87(2)(b)**

**Allegation C: Force – Physical Force: Sergeant Frederic Ortiz used physical force against § 87(2)(b)**

**Allegation D: Force – Physical Force: Sergeant Frederic Ortiz authorized the use of physical force against § 87(2)(b)**

**Allegation E: Force – § 87(2)(b) Sergeant Frederic Ortiz restricted § 87(2)(b)'s breathing.**

**Allegation F: Force – Handcuffs too tight: Police Officer John Antoniades tightly handcuffed § 87(2)(b)**

**Allegation G: Handcuffs too tight: An officer tightly handcuffed § 87(2)(b)**

It is undisputed that Sgt. Ortiz mistakenly stopped § 87(2)(b) and § 87(2)(b) after misidentifying them as suspects in an ongoing larceny investigation. It is also undisputed that § 87(2)(b) and § 87(2)(b) were forcibly detained, and that § 87(2)(b) was handcuffed. § 87(2)(b), § 87(2)(g)

Additionally, the following aspects of the incident were captured by the surveillance footage (see Video #1, above, unless otherwise noted), and are generally undisputed by the officers. (B.R. 04 – Video Transcription) At 00:24, § 87(2)(b) and § 87(2)(b) are seen walking together at a casual pace, each holding a shopping bag, while Sgt. Ortiz and PO Lathrop approach them from behind at a fast pace (00:24 – 00:38). At 00:41, Sgt. Ortiz and PO Lathrop make contact with § 87(2)(b) and § 87(2)(b) bear-hugging them into a still position – Sgt. Ortiz on § 87(2)(b) (right side) and PO Lathrop on § 87(2)(b) (also see 00:10 on Video #2 above). § 87(2)(b) and § 87(2)(b) are then moved to and held against a parked vehicle (while § 87(2)(b) and Sgt. Ortiz, closer to the camera, are minimally visible, § 87(2)(b) and PO Lathrop are largely obscured behind them). Already seen running towards the location, PO Antoniades and PO Martinez arrive on scene 13 seconds later, both standing close to Sgt. Ortiz. Between 00:59 and 1:25, PO Martinez moves from § 87(2)(b).

§ 87(2)(b)'s area to § 87(2)(b)'s area – never making physical contact with either – and then retreats to the opposite end of the sidewalk, without further involvement. During the same period, PO Antoniadis and Sgt. Ortiz are physically engaged with § 87(2)(b) (his body is now difficult to make out) – Sgt. Ortiz appears to be holding him, while PO Antoniadis rear-cuffs him. At 1:28: PO Antoniadis appears to have finished handcuffing § 87(2)(b) and remains behind him, still appearing to hold him; Sgt. Ortiz steps away from § 87(2)(b) and moves to § 87(2)(b) out of sight; and PO Lathorp steps back from § 87(2)(b). At 2:20, § 87(2)(b) appearing unrestrained, picks up a shopping bag from the ground. At 2:34, PO Antoniadis steps away from § 87(2)(b) at which time all three officers walk away from the scene. § 87(2)(b) follows them briefly with his cell phone, video recording them (also see Video #3 above).

§ 87(2)(b) and § 87(2)(b) stated that they had been shopping in the general vicinity of SoHo and the Lower East Side. Between 3:20 pm and 3:40 pm, they were at Nudie Jeans, located at Bowery and Spring Streets, after which they briefly entered a kitchen supply store (one of many in the area) somewhere near Kenmare Street. At a leisurely pace, § 87(2)(b) and § 87(2)(b) then walked east on Kenmare Street, as it turns into Delancey Street. § 87(2)(b) a black male standing 5'9" tall, weighing 200 lbs., was wearing a black T-shirt, blue jeans, and a red-flannel shirt wrapped around his waist (see: Photo 1 and Photo 2, embedded below; linked as B.R. 05 – Maps & Photos; § 87(2)(b) is at center in Photo 1). § 87(2)(b) a black male standing 6'1" tall, weighing 191 lbs., was wearing a red sweater, tan cargo pants, glasses, and a beret-style hat (see: Photo 1 and Photo 3, embedded below; linked as B.R. 05 – Maps & Photos; § 87(2)(b) is far right in Photo 1). § 87(2)(b) and § 87(2)(b) were each carrying shopping bags containing purchased items. § 87(2)(b) and § 87(2)(b) stated that they had no idea that anyone was following them, and did not hear or feel the officers approach them. When suddenly bear-hugged, both § 87(2)(b) and § 87(2)(b) were pushed towards a vehicle parked on Delancey Street (See: B.R. 09 – § 87(2)(b) Statement; B.R. 10 – § 87(2)(b) Statement).



photo1.snag



photo2.snag



photo3.snag

§ 87(2)(b) stated that the officer behind him, identified by the investigation as Sgt. Ortiz, “slammed” him into the vehicle chest-forward, and held him pressed against it. Although § 87(2)(b) remained still and compliant, Sgt. Ortiz kept telling him to “stop resisting,” and then proceeded to press his forearm against his lower neck, applying pressure. Now having difficulty breathing, § 87(2)(b) expressed that he could not breathe. However, Sgt. Ortiz continued to press against his lower neck in the same manner, for another thirty to sixty seconds, until he was handcuffed. § 87(2)(b) now asked if the cuffs could be loosened, because they were causing him pain. § 87(2)(b) believed that the same officer (who had restricted his breathing and applied the cuffs) responded by telling him to “shut the fuck up” and then intentionally tightened the cuffs, by squeezing them together. § 87(2)(b) believed that he could feel the officer’s hands around his wrists as the handcuffs got tighter (B.R. 09 – § 87(2)(b) Statement).

§ 87(2)(b) also stated that he was pushed towards the vehicle, which he was pressed up against, but did not suggest that the impact was forceful. Once at the vehicle, § 87(2)(b) stated that he was also handcuffed tightly. When he expressed to the officer that the cuffs were too tight, § 87(2)(b)

stated that he felt them become increasingly tighter. While § 87(2)(b) acknowledged that he did not know how handcuffs worked, he was convinced that the officer intentionally tightened the cuffs. While held against the vehicle, § 87(2)(b) stated that he noticed that § 87(2)(b) was restrained in a more “severe” manner – that the officer behind him had his forearm pressed down against the area between his lower neck and upper back. § 87(2)(b) acknowledged that § 87(2)(b) at the time, was upset and yelling (B.R. 10 – § 87(2)(b) Statement).

On the day of the incident, Patrol Borough Manhattan South Anti-Crime’s Grand Larceny detail was posted in SoHo, with twelve officers and two supervising sergeants, one of whom was Sgt. Ortiz (the other was uninvolved in the incident). According to the interviewed officers, the plainclothes Detail conducts surveillance and enforcement on foot at various retail establishments in the area. While Grand Larceny covers a range of theft, the officers stated that shoplifting was a major issue. Specifically, the officers represented that they knew the patterns and tactics of coordinated shoplifters – organized groups of skilled criminals, experienced in evading commercial theft-prevention systems (e.g., sensor alarms attached to merchandise). Operationally, the officers described their street-presence as inconspicuous and fluid: they typically work individually to blend into the crowd – because experienced shoplifters can spot law enforcement – and communicate by cell phone, often via text message (See B.R. 11-14, Sgt. Ortiz PO Martinez, PO Lathorp Statement, PO Antoniadis Statements). When suspects are identified, the observing officer notifies other teammates: collectively, the officers follow the suspects covertly, until probable cause is established for apprehension (B.R. 11, 12 – Sgt. Ortiz, PO Martinez Statements). Sgt. Ortiz stated that it was his job, as supervisor, to coordinate and execute on thoroughly investigated grand larceny arrests – by definition, for high-value theft – with strong probable cause implicating all involved perpetrators (B.R. 11 – Sgt. Ortiz Statement).

As for the incident, Sgt. Ortiz described the mistaken stop as the result of a series of accidents and errors. At approximately 2:30 pm on March 10<sup>th</sup>, Sgt. Ortiz noticed a suspicious group of six individuals – four black females and two dark-skinned, either black or Hispanic males – at Mercer Street and Spring Street, outside a clothing store called Rag & Bone. From his experience, Sgt. Ortiz could tell from a distance that some of these females appeared to be carrying “booster bags” – shopping bags with metallic insides, used to insulate and silence theft-prevention sensors, generally regarded as a burglary tool. On closer approach, Sgt. Ortiz was able to confirm, by glancing inside, that they were booster bags, and that the males were only carrying empty shopping bags. The females appeared to be high-school aged, while the males were in their 30s. Sgt. Ortiz recalled little else about the males, beyond stating that they were behaving in a “feminine” manner: while one was tall and the other was short, he could not articulate an approximate height or build range. All he knew for certain was that one was wearing red shirt or jacket and the other was wearing a black shirt or jacket, and that one of them wore some type of a hat. While he may have mentally registered other physical descriptors at the time, Sgt. Ortiz said that clothing color, on its own, was the most useful point of reference in the field, especially in surveillance and pursuit, stating that height and build were less relevant in SoHo, because everyone was “fit” or a “model.” When relaying suspect descriptions to fellow officers, as he did in this case, Sgt. Ortiz stated that he only relays clothing-color information, stating: “I’m not going to say - black male, Jheri curls, green eyes- I’m not going to say that. I’m going to say – red, black, grey, white sneakers.” However, Sgt. Ortiz acknowledged that suspects often change their

clothing in the course of shoplifting, in fitting rooms or bathrooms, requiring officers to update any relayed information. (B.R. 11, B.R. 15 – Sgt. Ortiz Statement, Memo Book)

Sgt. Ortiz proceeded to notify his Detail (he did not recall who specifically) about his suspects. These officers then responded and began following the suspects, over an hour long period of joint surveillance during which the suspects split up, some entering Rag & Bone and others moving on to different stores. Sgt. Ortiz did not participate in the operation himself, and never followed any of the suspects, but coordinated from a distance. Sgt. Ortiz was certain that the investigating officers advised him that they suspect had not purchased any items in the stores they visited. However, while Sgt. Ortiz believed that the officers observed actual theft, he could not provide any supporting information, repeatedly stating: “I don’t which person saw what, but someone saw something. I don’t know which members [of the Detail] would have said [they] put something in the bag.” According to Sgt. Ortiz, an officer’s mere observation of possible theft – someone placing merchandise into a shopping bag, without paying for it – would not warrant an arrest (B.R. 11 – Sgt. Ortiz Statement).

At approximately 3:30 pm, Sgt. Ortiz was notified by one of his officers that the suspect group had re-convened inside a Chipotle restaurant at Spring and Crosby Streets, a narrow two-level establishment, with a main floor, and an additional basement-level seating area. At Chipotle, Sgt. Ortiz recounted the following sequence of events: he trailed the suspects downstairs, where all six of them eventually entered a single-occupancy bathroom; soon thereafter, Sgt. Ortiz detected the odor of burning chemical, which he recognized as a telltale sign of theft-prevention sensors being detached from merchandise; as the individuals then began to exit, one by one, Sgt. Ortiz instructed his officers – many of whom were standing by upstairs or outside (he recalled none by name) – to follow the suspects, as he tried to retrieve the sensors, which he expected were discarded in the trash; by the time he retrieved the sensors and exited the store, Sgt. Ortiz learned from his officers that they suspects had fled – that they had sensed being followed, and ran separately in multiple directions, without a single officer pursuing them. Sgt. Ortiz had expected his officers to follow them, especially if they had fled, and could not explain how they could have evaded what he described as the entire Detail (though he could not identify or approximate the number of officers on the scene). While Sgt. Ortiz stated that he needed to retrieve the sensors to effectuate an arrest, he acknowledged, “in retrospect,” that he should have apprehended the individuals as they exited the bathroom. Sgt. Ortiz stated that when the suspects went into the bathroom, their shopping bags appeared to be full, but did not recall if the males entered or exited with any shopping bags. Sgt. Ortiz did not recall if got a better look at either of the males, and did not recall if they had changed their clothes when they exited (B.R. 11 – Sgt. Ortiz Statement).

While PO Martinez corroborated some of the above statements, he contradicted Sgt. Ortiz on key issues. PO Martinez stated: that he was the first to observe a five-person group of suspicious individuals – three females and one male – after noticing that one of them was carrying a heavy bag filled with sensor-tagged clothing; that he was the first to follow the group into Chipotle, within minutes after he initially saw them; and that there had been no preceding surveillance or mobilization in relation to this group. PO Martinez stated that only one female was carrying the possibly stolen clothing, and that the males were not carrying any bags. Aside from describing the group by number, gender, and race, PO Martinez stated that he had only relayed the males’ clothing-color descriptions to Sgt. Ortiz: that one was wearing a burgundy sweatshirt or hoodie,



and that the other was wearing a black jacket. PO Martinez stated that Sgt. Ortiz was entering the Chipotle as the group was going down to the basement, and joined him downstairs *after* the group had already entered the bathroom, at which point they (PO Martinez standing by the bathroom, Sgt. Ortiz seated by a table) both smelled the odor of burning sensors. However, because PO Martinez exited the store soon thereafter, entering a Starbucks across the street, PO Martinez did not know how the suspects managed to flee, and in what manner they did so. (B.R. 12 – PO Martinez Statement) PO Lathorp, who responded to Chipotle with no knowledge or involvement in any prior investigation, saw the suspect group exit the store, and suddenly change directions when they approached him, possibly because they knew he was an officer. However, PO Lathorp did not state that they fled in multiple directions – he said they moved together down towards Broadway and Spring Street, where he lost sight of them. Stating that he had little information about what these individuals were being investigated for, PO Lathorp did not know if he had reasonable suspicion to pursue or stop them, and could not describe any male members of the group. (B.R. 13 – PO Lathorp Statement)

Realizing that his suspects had fled, Sgt. Ortiz instructed his officers to canvass the area, and proceeded to do so himself. Soon after he started to canvass, Sgt. Ortiz happened to see two black males, from a distance of approximately 100 feet, wearing red and black and carrying shopping bags. Upon following them for an uncertain distance, he saw the males stop at an unknown street corner, and stand by a trash can. There, the males began to remove price tags from the bagged clothes, discarding them into the trash can, making no attempt to conceal what they were doing. Even after reviewing a map and navigating the area on Google Street View, Sgt. Ortiz was highly unclear about exactly where he first found the males, how he then followed them, and exactly where he saw them discarding tags. Alerting his officers, Sgt. Ortiz began to follow the individuals when they resumed walking, eventually finding himself on Delancey Street, where he was met by PO Lathorp. Stating that shoplifters tended to flee on approach, Sgt. Ortiz decided to apprehend the males from behind, without giving notice, and conveyed so to PO Lathorp. (B.R. 11 – Sgt. Ortiz Statement)

The males made no furtive movements as the officers pursued them. Prior to contact, the officers did not vocalize their presence. As he bear-hugged § 87(2)(b) and moved him to the parked vehicle, Sgt Ortiz repeatedly announced himself as a police officer. Because § 87(2)(b) had already tensed up his body and begun yelling, Sgt. Ortiz told § 87(2)(b) “I’m going to let you go, will you calm down? I’m going to show you my shield.” However, because § 87(2)(b) had started to yell and “tense up” his body, Sgt. Ortiz decided that he needed to be handcuffed. While Sgt. Ortiz stated that he was concerned § 87(2)(b) would “swing” at him if he was not cuffed, he could not articulate exactly what he was doing physically. When PO Antoniades soon arrived on the scene, he and Sgt. Ortiz jointly rear-cuffed § 87(2)(b) continuing to bear-hug him till the cuffs were on. (B.R. 11 – Sgt. Ortiz Statement)

After § 87(2)(b) was handcuffed and after PO Martinez advised that they were mistaken, Sgt. Ortiz engaged § 87(2)(b) – who was never handcuffed – explaining and apologizing for the mistaken stop. § 87(2)(b) appeared to understand. § 87(2)(b) was uncuffed soon thereafter, at which point the officers walked away from the scene. Sgt. Ortiz denied restricting § 87(2)(b)s breathing in any manner, by applying pressure to his neck or back, and denied hearing § 87(2)(b)s say that he could not breathe. Sgt. Ortiz also denied intentionally tightening § 87(2)(b)s

handcuffs. Corroborating all of the above, PO Lathorp stated that § 87(2)(b) was never handcuffed at all. (B.R. 11, 13 – Sgt. Ortiz, PO Lathorp Statements)

PO Antoniades, who followed PO Martinez to the scene, acknowledged handcuffing § 87(2)(b) and holding him for the duration of the stop. While PO Antoniades also stated that § 87(2)(b) was “struggling” with Sgt. Ortiz as he arrived on scene, and that he was resistant during handcuffing, he was unable to further describe the struggle and subsequent physical dynamic. PO Antoniades denied applying any pressure to restrict § 87(2)(b)’s breathing, and denied intentionally tightening his handcuffs. PO Martinez largely corroborated the above, and stated that he realized Sgt. Ortiz’s mistake almost immediately – compared to his suspects, § 87(2)(b) and § 87(2)(b) were of heavier build. (B.R. 12, 14 – PO Antoniades, PO Martinez Statements)

A police officer may stop and detain a person in a public place when he entertains a reasonable suspicion that the person has committed, is committing or is about to commit a crime. Reasonable suspicion may not be based on a vague or un-particularized hunch. Nor will innocuous or even equivocal behavior generate a founded suspicion of criminality. (B.R. 22 – People v. DeBour, 40 N.Y.2d 210). Vague or generic descriptions of a suspect which could apply to numerous individuals cannot form the basis of reasonable suspicion. (B.R. 23 – People v. Ransom, 2015 NY Slip Op 50280(U)) “The reasonableness standard...permits a flexible set of escalating police responses, provided only that they remain reasonably related in scope and intensity to the information the officer initially has, and to the information he gathers at his encounter with the civilian unfolds.” (B.R. 24 – People v. Finlayson, 76 A.D.2d 670) Officers are permitted to use the minimum and necessary force required to overcome resistance (B.R. 25 – Patrol Guide 203-11).

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation H: Discourtesy – Word: An officer spoke discourteously to § 87(2)(b)**

**Allegation I: Discourtesy – Word: An officer spoke discourtesly to § 87(2)(b)**

**Allegation J: Abuse of Authority – Frisk: An officer frisked § 87(2)(b)**

**Allegation K: Abuse of Authority – Search: An officer searched § 87(2)(b)**

**Allegation L: Abuse of Authority – Frisk: Sergeant Frederic Ortiz frisked § 87(2)(b)**

§ 87(2)(b) alleged that he was frisked and searched by the male who handcuffed him against the vehicle. While held against the vehicle, § 87(2)(b) alleged that Sgt. Ortiz approached him, patted his pants pockets, and then explained why they had been stopped. § 87(2)(b) and § 87(2)(b) both stated that they were repeatedly told to “shut the fuck up” by the respective officer holding them.

All of the interviewed officers stated that they did not speak discourteously to § 87(2)(b) and § 87(2)(b). Sgt. Ortiz denied frisking or searching § 87(2)(b) and denied frisking § 87(2)(b). PO Antoniades did not recall frisking or searching § 87(2)(b) or frisking § 87(2)(b). PO Lathorp and

PO Martinez did not believe that either individual was frisked or searched. The UF-250 reports the same (see: B.R. 11-14, Officer Statements; B.R. 19 – UF-250).

The video footage is inconclusive. The investigation was thus unable to determine whether or not § 87(2)(b) was frisked or searched by any of the officers, or if § 87(2)(b) was frisked by Sgt. Ortiz. As explained previously, the investigation was unable to determine which officer, if any, spoke discourteously to § 87(2)(b) and § 87(2)(b).

§ 87(2)(g)

**Allegation M: Abuse: Sergeant Frederic Ortiz refused to provide his name and shield number to § 87(2)(b)**

**Allegation N: Abuse: Sergeant Frederic Ortiz refused to provide his name and shield number to § 87(2)(b)**

**Allegation O: Abuse: Police Officer Ryan Lathorp refused to provide his name and shield number to § 87(2)(b)**

**Allegation P: Abuse: Police Officer Ryan Lathorp refused to provide his name and shield number to § 87(2)(b)**

**Allegation Q: Abuse: Police Officer John Antoniades refused to provide his name and shield number to § 87(2)(b)**

**Allegation R: Abuse: Police Officer John Antoniades refused to provide his name and shield number to § 87(2)(b)**

§ 87(2)(b) and § 87(2)(b) both stated that they asked all three officers, as they left the scene, for their names and shield numbers, but did not receive and response (B.R. 09, 10 – § 87(2)(b) Statements). When he filed the complaint, § 87(2)(b) did not have any identifying information for the officers, and noted that they had refused to provide their badge numbers (B.R. 06, 07 – Original Complaint Form, § 87(2)(b) Phone Statement).

Sgt. Ortiz stated that he verbally provided his name and displayed his shield to § 87(2)(b) but that he did so voluntarily – that neither § 87(2)(b) nor § 87(2)(b) ever asked him to identify himself by name and shield number. PO Lathorp stated that he verbally identified himself to § 87(2)(b) voluntarily, by name and shield number. The officers all stated that § 87(2)(b) and § 87(2)(b) never requested their names or shield numbers. (B.R. 11-14, Officer Statements)

Absent additional evidence, the investigation was unable to determine whether or not Sgt. Ortiz, PO Lathorp, and PO Antoniades refused to provide their names and shield numbers to § 87(2)(b) and § 87(2)(b).

§ 87(2)(g)

Squad: 8

Investigator:	_____	_____	_____
	Signature	Print	Date

Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date